United States District Court
For the Northern District of California

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8   UNITED STATES DISTRICT COURT

9   NORTHERN DISTRICT OF CALIFORNIA

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11   JESSE J. BYRD, *et al.*,   No. C 11-01742 DMR

12   Plaintiffs,   **ORDER RE STATEMENT OF**
                                                      UNDISPUTED MATERIAL FACTS
13   v.

14   SF CITY & COUNTY, *et al.*,

15   Defendants.

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         This court's Standing Order regarding motions for summary judgment **requires** the parties to
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     file a joint statement of the material facts not in dispute by citations to admissible evidence. On
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     November 20, 2012, Defendants filed a motion requesting an extension of the filing deadline for
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     their forthcoming motion for summary judgment, or in the alternative, leave to file a separate
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     statement of undisputed facts. [Docket No. 70.] Defendants' request was based upon their
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     representation that due to delays caused by Plaintiffs there had been insufficient time for the parties
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     to meet and confer regarding a joint statement. By order that day, the court denied the request to
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     continue the filing deadline for the motion and granted Defendants leave to file a separate statement
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     of undisputed material facts with their motion. However, the court also ordered the parties to file a
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1   joint statement of undisputed material facts by no later than the deadline for Plaintiffs to file their

2   opposition to Defendants' motion. [Docket No. 71.]

3   Defendants filed their motion for partial summary judgment on November 21, 2012, along

4   with a separate statement of undisputed material facts. [Docket Nos. 72, 73 ("Defendants'

5   Statement of Facts").] On December 5, 2012, Plaintiffs filed their opposition to the motion [Docket

6   No. 86] but the parties did not file a joint statement of undisputed material facts, in violation of the

7   court's November 20 order. On December 6, 2012, Defendants filed a declaration in which they

8   represented that the parties had not finished meeting and conferring regarding the joint statement,

9   despite the court's December 5, 2012 deadline to file the statement. [Docket No. 87.] On December

10   11, 2012, Defendants filed an additional declaration regarding the parties' meet and confer efforts

11   regarding the joint statement. [Docket No. 89.] Defendants attached an exhibit to the declaration

12   that counsel represented was a draft joint statement containing 19 facts upon which the parties had

13   reached agreement, but which Plaintiffs' counsel had refused to permit Defendants to file based

14   upon a dispute as to the materiality of one fact. [Docket 98-2 ("Draft Joint Statement of Facts").]

15   The parties are in direct violation of the court's November 20, 2012 order and **still have not**

16   **submitted a joint statement of undisputed material facts as required by this court's Standing**

17   **Order and the November 20 order.** The court has reviewed the parties' motion papers as well as

18   Defendants' Statement of Facts and the Draft Joint Statement of Facts. Notwithstanding Plaintiffs'

19   dispute as to the materiality of the facts, it appears that Plaintiffs are not disputing Defendants'

20   Statement of Facts nos. 1-9, 12-14, 17-34, and 37-51, as they did not submit any evidence to dispute

21   those facts. With respect to the Draft Joint Statement of Facts, it appears that the parties reached

22   agreement regarding facts 1-5 and 7-20. As to fact 6, it appears that the fact is undisputed, but that

23   the parties disagree as to whether the fact is material. The court will determine the materiality of

24   facts. Accordingly, the court will consider the following facts **undisputed** for purposes of

25   Defendants' motion, unless either party submits an objection, with citations to admissible evidence,

26   **by no later than December 31, 2012:** Defendants' Statement of Facts 1-9, 12-14, 17-34, 37-51, and

27   Draft Joint Statement of Facts 1-20.

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1   The court will take under submission the issue of whether sanctions should be imposed on

2   the parties for their failure to comply with Standing Order and the November 20, 2012 order.

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4   IT IS SO ORDERED.

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6   Dated: December 28, 2012

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                                                   DONNA M. RYU
8   United States Magistrate Judge

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IT IS SO ORDERED

Donna M. Ryu
Judge Donna M. Ryu

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